Joint Committee on Taxation
JCX-8-86
July 21, 1986

COMPARISON OF DIFFERING PROVISIONS OF TECHNICAL CORRECTIONS (H.R. 3838)

(Title XV of House Bill and Title XVIII of Senate Amendment)

TECHNICAL CORRECTIONS TO THE TAX REFORM ACT OF 1984

I. Tax Reform Generally

A. Tax Freeze Provisions (sec. 1501 of the House bill and sec. 1801 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) specified farm finance leases are not disqualified by reason of a corporation becoming a partner or beneficiary of the lessor; and

(2) the amendment clarifies that distilled spirits held in a foreign trade zone on October 1, 1985, and entered into U.S. customs territory after that date are subject to the floor stocks tax.

B. Tax-exempt Entity Leasing (sec. 1502 of the House bill and sec. 1802 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the provision relating to subsidiary organizations applies to property placed in service after March 1, 1986 (rather than September 27, 1985), and does not tax dividends out of previously taxed earnings; and

(2) the amendment clarifies that a specified project was covered by the 1984 transitional rules.

C. Debt Instruments (sec. 1503 of the House bill and sec. 1803 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the provision relating to the amortization of bond

premium applies to bonds issued after March 1, 1986 (rather than September 27, 1985);

(2) the amendment provides that basis, for purposes of computing bond premium, generally cannot exceed fair market value for bonds issued after May 6, 1986;

(3) the provision requiring accrual of interest on certain short term obligations applies to obligations acquired after March 1, 1986 (rather than September 27, 1985); and

(4) the provision in the House bill clarifying the effective date for the repeal of the capital asset requirement is deleted.

D. Corporate (sec. 1504 of the House bill and sec. 1804 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the provision relating to the dividends received deduction applies to stock acquired after March 1, 1986 (rather than date of enactment);

(2) the provision relating to the accumulated earnings tax applies to distributions after March 1, 1986 (rather than September 27, 1985);

(3) the provision grandfathering a specified corporation from the changes to the affiliated corporation rules is deleted;

(4) the grandfather provision in the 1984 Act for the Alaska Native Claims Corporation is to apply without regard to the amount of equity in the subsidiary corporation (floor amendment by Senator Stevens, adopted by voice vote);

(5) the provision relating to the definition of qualified stock purchase applies for purchases begun after March 1, 1986 (rather than September 27, 1985);

(6) the provisions relating to reorganizations are further clarified and made applicable to plans of reorganization adopted after date of enactment;

(7) the overlap between "C" and "D" reorganizations is clarified;

(8) the provision relating to collapsible corporations applies to sales after March 1, 1986 (rather than September 27, 1985);

(9) the effective date for the treatment of distributions of appreciated property is postponed for a specified corporation;

(10) the effective date of the earnings and profits change for foreign corporations is delayed for 2 years (rather than the 6 months in the House bill) and the delay applies only to installment sales (floor amendment by Senator Moynihan, adopted by voice vote); and

(11) for purposes of the golden parachute provision,

(a) the limitation on the number of employees treated as highly compensated for purposes of the golden parachute provision is the lesser of (i) the highest paid 1 percent of the individuals performing services for the corporation (determined on an affiliated group basis) or (ii) the highest paid 250 individuals performing services for the corporation or for each corporation that is a member of the same affiliated group; and

(b) the application of the golden parachute rules to a securities law violation is clarified to apply only to a violation of a generally enforced securities law or regulation and to provide that the burden of proof with respect to establishing the occurrence of a violation is upon the Secretary of the Treasury.

E. Trusts (sec. 1506 of the House bill and sec. 1806 of the Senate amendment)

The Senate amendment is the same as the House bill, except that the amendment clarifies that the election to recognize gain or loss applies to all trust distributions made during the taxable year.

F. Accounting (sec. 1507 of the House bill and sec. 1807 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the transitional rule for nuclear decommissioning expenses applies through 1986 (rather than 1985);

(2) a transitional rule relating to a certain payment to an insurance company with respect to an asbestos claim is deleted;

(3) economic performance with respect to tort liability is deemed to occur as qualified payments are made to a designated settlement fund; a specified taxpayer may deduct payments to a fund that does not qualify as a designated

settlement fund and is taxed at a special rate; and

(4) a specified taxpayer is allowed to use the cash method of accounting.

G. Tax Straddles (sec. 1508 of the House bill and sec. 1808 of the Senate amendment)

The Senate amendment is the same as the House bill, except that the provision relating to the application of profit motive test to pre-1981 straddles is deleted.

H. Depreciation (sec. 1509 of the House bill and sec. 1809 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the provision relating to related party sale-leasebacks applies to property placed in service after March 1, 1986 (rather than September 27, 1985, or December 15, 1985, for a specified transaction); and

(2) the provision clarifying that the provision in the 1984 Act relating to bond-financed property did not apply to certain property grandfathered in TEFRA is deleted.

I. Foreign (sec. 1510 of the House bill and secs. 990 and 1810 of the Senate amendment)

The Senate amendment is the same as the House bill, except that the Senate amendment provides--

(1) a working capital exception to the rules maintaining the character of interest income for dividends and interest received from a regulated investment company by a portfolio shareholder in such company;

(2) an election to be treated as a U.S. resident for income tax purposes in a calendar year to certain alien individuals who qualify as U.S. residents in the following year under the 1984 Act's substantial presence test; and

(3) in applying the substantial presence test for purposes of determining the residency of an alien, days in which a professional athlete is present in the United States competing in certain charitable sports events are not counted (floor amendment by Senator Quayle, adopted by voice vote).

J. Compliance (sec. 1511 of the House bill and sec. 1811 of the Senate amendment)

The Senate amendment is the same as the House bill, except that the amendment requires the passthrough of

information to beneficial owners of partnership interests.

K. Low-Interest Loans (sec. 1512(b) of the House bill and sec. 1812(b) of the Senate amendment)

The Senate amendment is the same as the House bill, except that the exception to the provision for obligations issued by Israel does not contain the restrictions in the House bill which is intended to limit the exception to bonds of a type now being issued.

L. Related Party Transactions (sec. 1512(c) of the House bill and sec. 1812(c) of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the related party partnership rules apply to sales after May 6, 1986 (rather than September 27, 1985); and

(2) a transitional rule for a specified debt is deleted.

M. Luxury Vehicles and Gas Guzzler Tax (sec. 1512(e) of the House bill and sec. 1812(e) of the Senate amendment)

The Senate amendment is the same as the House bill, except that--

(1) the provision applying "unloaded gross vehicle weight" to luxury vehicles is not made applicable to trucks and vans;

(2) the provision applying "unloaded gross vehicle weight" to the gas guzzler tax is made effective November 1, 1985 (instead of January 1, 1980, with a special rule for 1985 and 1986 station wagons); and

(3) the gas guzzler tax is made inapplicable to small manufacturers who lengthen existing automobiles.

(Items (2) and (3) are floor amendments by Senator Evans, adopted by voice vote.)

II. Life Insurance (secs. 1521-1529 of the House bill and secs. 1821-1829 of the Senate amendment)

The Senate amendment is the same as the House bill, except --

(1) An exception to the rule reducing the deduction for accelerated policyholder dividends is added for group insurance provided with respect to a welfare benefit plan.

(2) The definition of 50 largest stock companies is modified to provide that a company is excluded if it had a negative equity base at any time during 1981, 1982, or 1983, and to make exclusion of negative equity base companies mandatory.

(3) The differential earnings rate applicable for determining estimated tax payments is the lesser of the rate for the second taxable year preceding the year for which the installment is paid, or the rate for the year for which the installment is paid.

(4) There is no exception in the case of mandatorily redeemable stock from the treatment of indirect distributions from the policyholder surplus account, and the effective date for loans is changed from November 27, 1985, to March 1, 1986.

(5) The anti-double proration rule is modified to provide that section 245(b) dividends are treated as 100 percent dividends.

(6) When the tables with respect to a type of insurance are changed by Treasury, the new table is treated as a new prevailing commissioner's standard table.

(7) The provision determining the taxable year for which the fresh-start adjustment is included in earnings and profits is clarified to provide that, in general, the year is 1984. A special rule provides for the inclusion in earnings and profits in 1985 in the case of one company.

(8) In the definition of life insurance, a clarification is added that policyholder dividends are not subtracted twice from the amount of premiums paid.

(9) Life insurance provided under a self-insured church plan can qualify as life insurance so that the death benefit is excludable from gross income under section 101(a).

(10) Transfers of annuities without adequate consideration are treated as causing the excess of the investment in the contract over the cash surrender value to

be treated as income.

(11) The clarification of the exceptions to the five percent penalty for premature distributions from deferred annuity contracts becomes effective 6 months after the date of committee action.

(12) Life insurance companies acquired in 1983 are permitted to make an election under section 818(c) of pre-1984 Act law for the period between acquisition and December 31, 1983, provided that the acquired company had an 818(c) election in effect immediately prior to the acquisition.

(13) A certain mutual insurance company may avoid the differential earnings tax with respect to nonparticipating mortgage life insurance business placed in a stock subsidiary, provided the subsidiary pays no policyholder dividends.

(14) The grandfather rule for group-term life insurance is clarified to provide that a comparable successor plan is treated as such a plan with respect to any employee whose benefits do not change under the successor plan.

III. Simplification (secs. 1541-1549 of the House bill and secs. 1841-1848 of the Senate amendment)

The Senate amendment is the same as the House bill, except that the amendment does not contain the provision allowing C.P.A.'s and enrolled agents to practice before the Tax Court in cases involving $10,000 or less.

IV. Employee Benefits

A. Welfare Benefit Plan Provisions (sec. 1551 of the House bill and sec. 1851 of the Senate Amendment)

The Senate amendment is the same as the House bill, except--

(1) The clarification of a definition of a fund provides that a qualified nonguaranteed contract--

(a) includes any insurance contract that provides a reasonable premium stabilization reserve held under the contract;

(b) the provision under which an insurance contract is not treated as a fund if experience rated refunds are based on the experience of the employer is modified to provide that the exception applies if the only amounts payable (directly or indirectly) to the employer or employees as experience-rated refunds or policy dividends are substantially unrelated to the amount of welfare benefits paid to (or on behalf of) the employees of the employer, the administrative expenses incurred by the insurance company in providing the welfare benefits, and the investment experience of the insurance company with respect to amounts contributed by or held for the employer; and

(c) except in the case of a reserve for post-retirement medical or life insurance benefits and any other arrangement between an insurance company and an employer under which the employer has a contractual right to a refund or dividend based solely on the experience of such employer, any account held for an employer may not be treated as a fund earlier than 6 months following the publication of final regulations.

(2) The account limits do not apply in the case of a welfare benefit fund under a collective bargaining agreement.

(3) The account limits do not apply in the case of an employee pay-all VEBA if the plan has at least 50 employees covered and no employee is entitled to a refund with respect

to amounts in the fund, other than a refund based on the experience of the entire fund.

(4) The deductibility of deferred compensation is clarified to provide that an employer's deduction is governed by section 404 if the amounts would, but for section 404, be deductible under any section of the Code, rather than only if the amounts would be deductible under section 162 or section 212.

B. Pension Plan Provisions (sec. 1552 of the House bill and sec. 1852 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the provision requiring that distributions commence under a tax-sheltered annuity no later than when the employee attains age 70 1/2 is deleted;

(2) the repeal in the Act (and the reduction in TEFRA) of the estate tax exclusion for pension benefits is modified to provide that the provision does not apply to an individual (a) separated from service before January 1, 1982, and (b) otherwise meets that requirements for the grandfather rule, is treated as having made an irrevocable election of the time and form of benefits if the individual did not change an election before the individual's death; and

(3) the effective date of the Multiemployer Pension Plan Amendments Act of 1980 is modified to provide that the effective date is (a) January 12, 1982, in the case of a certain employer, and (b) June 30, 1981, in the case of an employer engaged in the grocery wholesaling business.

C. Fringe Benefit Provisions (sec. 1553 of the House bill and sec. 1853 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the exception for a leased section of a department store engaged in offering beautician services applies if the section is customarily engaged in over-the-counter sales of beauty aids in the ordinary course of business;

(2) the exception to the tuition reduction nondiscrimination rules for Oberlin College is revised (a) to permit the testing for nondiscrimination to be done without regard to whether there is evidence that the benefits provided were the subject of good faith collective bargaining and (b) to include in the exception a tuition reduction program of Carleton College; and

(3) the House bill provides an exception to the tuition reduction provision for a certain student.

D. Employee Stock Ownership Plans (sec. 1554 of the House bill and sec. 1854 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) For purposes of the provisions relating to the tax-free rollover of gain under section 1042 upon the sale of qualified securities to an ESOP--

(a) the Senate amendment clarifies that, in the case of the death of an individual who sold "qualified securities" to an ESOP or an eligible worker-owned cooperative ("EWOC"), the executor of the individual's estate is eligible to elect to defer the recognition of gain, if any, realized on the sale, to the extent that the proceeds are invested by the executor in qualified replacement property, and the other conditions of section 1042 are satisfied;

(b) the Senate amendment provides that the 30-percent ownership test will be deemed satisfied if, immediately after the sale of the "qualified securities" to the ESOP or EWOC, the ESOP or EWOC holds (i) 30 percent of the total number of shares of each class of stock (other than preferred) or (ii) 30 percent of the total value of all stock of the corporation that issued the qualified securities;

(c) the Senate amendment provides that the 30-percent ownership test is to be applied after application of the attribution rules of section 318(a)(4) with respect to sales after May 6, 1986;

(d) The Senate amendment eliminates, as a condition of nonrecognition treatment, the requirement that no portion of the employer securities acquired in a section 1042 transaction be allocated for the benefit of the taxpayer, family members of the taxpayer or owners of more than 25 percent in value of any class of outstanding employer securities ("the prohibited allocation rule"); and makes this requirement a qualification requirement for ESOPs and EWOCs;

(e) the Senate amendment modifies the prohibited allocation rule in the same manner as the House bill, except in the following respects:

(i) the Senate amendment clarifies that neither assets attributable to the employer securities, nor assets allocable in lieu of those

securities, may inure for the benefit of the prohibited group;

(ii) the Senate amendment clarifies that it is the taxpayer who elects nonrecognition treatment to whom the rule applies;

(iii) the Senate amendment contains a de minimis exception to the rule prohibiting allocations to family members;

(iv) the Senate amendment clarifies that an individual is a 25-percent shareholder, for purposes of the rule if the individual owns (after attribution) more than 25 percent of (a) any class of outstanding stock of the corporation that issued the employer securities, or (b) the total value of any class of outstanding stock of the corporation. The bill also clarifies that attribution rules are applied without regard to an employee trust exception and the bill also clarifies the date as of which an individual's status as a 25-percent shareholder is to be determined;

(v) the Senate amendment limits the prohibited allocation rule to a specified period of time after sale or allocation of the securities;

(vi) the Senate amendment provides that the statute of limitations for the excise tax on a prohibited allocation (new sec. 4979A) shall not expire before the later of 3 years from the date of the first allocation of employer securities acquired in the section 1042 transaction, or the date that the Secretary is notified of the failure to comply with the exclusive benefit requirement;

(vii) the provisions modifying the prohibited allocation rule are effective for sales of securities after the date of enactment;

(f) the Senate amendment provides that qualified replacement property does not consist of securities issued by any member of the same controlled group of corporations as the corporation that issued the qualified securities;

(g) the Senate amendment requires that, to be an operating corporation, more than 50 percent of a corporation's assets must be used in the active conduct of a trade or business during the replacement period and provides that a financial institution is treated as an operating corporation;

(h) the Senate amendment provides that any qualified replacement property of the taxpayer with respect to which the section 1042 election was made is disregarded for purposes of determining whether one corporation is in control of another;

(i) the Senate amendment provides that, if a taxpayer acquired a security before January 1, 1986 (rather than September 27, 1985, under the House bill), and treated such security as qualified replacement property, and if such property no longer constitutes qualified replacement property, then the replacement period for the acquisition of qualified replacement property is extended until January 1, 1987 (rather than September 27, 1986, under the House bill);

(j) with respect to the provision that a subchapter C corporation may not elect section 1042 treatment, the Senate amendment contains exceptions for two sales; and

(k) the Senate amendment exempts any transfer of qualified replacement property (i) in any controlled, nontaxable reorganization, (ii) by reason of the death of the taxpayer who made the section 1042 election, (iii) by gift, or (iv) in any transaction with respect to which an election under section 1042 is made from the general recapture provision.

(2) For purposes of the provisions relating to the deductibility of dividends paid on stock held by an ESOP--

(a) the Senate amendment provides that dividends paid to a participant that are deductible under section 404(k) are treated as paid under a separate contract, with an exception for dividends paid before January 1, 1986, if the taxpayer treated such dividends in a manner inconsistent with the amendment on a tax return filed before the date of enactment;

(b) the Senate amendment does not contain the provision that dividends must be paid on stock that has been allocated to a participant's account on the record date of the dividend in order to be deductible;

(c) the Senate amendment provides that the Secretary may disallow a deduction under section 404(k) if the Secretary determines that such dividend is in substance an avoidance of taxation, whereas the House bill denies a deduction for dividends that are, in substance, the payment of unreasonable compensation; and

(d) the Senate amendment provides an exception to the rule that a deduction is allowed only in the taxable

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year of the corporation in which the dividend is paid or distributed to the participant for dividends paid before January 1, 1986, if the taxpayer treated the dividends in a manner inconsistent with the amendment on a tax return filed before the date of enactment.

(3) For purposes of the provisions relating to the exclusion of interest on loans to an ESOP used to acquire employer securities--

(a) the Senate amendment contains an exception to the rules on corporate tax preference items for excludable interest received by a financial institution for a securities acquisition loan;

(b) the Senate amendment contains an exception to the below-market loan rules for certain loans related to securities acquisition loans;

(c) the Senate amendment provides that, notwithstanding the restrictions on loans between certain related parties, a loan will nevertheless be treated as a securities acquisition loan provided that (1) the loan did not originate with any prohibited lender, and (2) no interest received on such loan during such time as such loan is held by such employer (or any member of a controlled group of which the employer is a member) is excludable under section 133; and

(d) the Senate amendment provides that, if a corporation borrows funds which it in turn lends to an ESOP, the loan to the corporation will be eligible for the exclusion under section 133 only if the terms of the two loans are substantially similar, or if the payment terms are substantially similar, except for the fact that the loan to the ESOP provides for the more rapid payment of principal or interest if allocation under the plan attributable to such repayment does not discriminate in favor of highly compensated employees and the original commitment period of the loan to the corporation does not exceed 7 years.

(4) The Senate amendment requires the trustee of an ESOP or EWOC, the by-laws of which provide that the interests in the ESOP or EWOC are governed on a one-vote-per-participant basis, to vote the employer securities in a manner that reflects the one-man-one-vote philosophy.

(5) The Senate amendment provides that, if a plan fiduciary exchanges employer securities for other securities of the employer pursuant to a tender offer, or exchanges the securities for cash and reinvests the cash in new employer securities within 90 days, the plan will have a carryover basis in the acquired securities.

(6) The Senate amendment also provides that a plan may distribute employer securities in lieu of cash, subject to the requirement that such securities are resold to the employer.

E. Miscellaneous Provisions (sec. 1555 of the House bill and sec. 1855 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the provision in ERTA relating to stock restrictions is made retroactive for certain transfers in 1973; and

(2) the provision in the House bill allowing certain section 83(b) elections to be made for stock transfers before July 1, 1976, is deleted.

V. Tax-Exempt Bonds (secs. 1561-1574 of the House bill and secs. 1861-1873 of the Senate amendment)

The Senate amendment is the same as the House bill, except--

(1) the amendment determines the qualified veterans' mortgage bonds eligible to be advance refunded by reference to bonds outstanding on December 31, 1981 (rather than December 5, 1980);

(2) the amendment deletes rules authorizing Treasury to waive the requirement of an address in the case of private activity bond volume cap carryforward elections for solid waste disposal facilities;

(3) the amendment includes an exception from the Federal guarantee prohibition for a Tennessee solid waste disposal facility having an output contract with the Federal Government;

(4) the amendment adds an exception from the arbitrage rebate requirement for a Muskogee, Oklahoma, project previously excepted from certain other requirements of the 1984 Act;

(5) the amendment deletes an amendment to the volume of supplemental student loan bonds authorized to be issued by the Illinois Student Loan Authority in the 1984 Act;

(6) the amendment deletes an exception to the private loan bond rule for certain bonds for the St. Johns River Power Park;

(7) the amendment adds an exception to the private loan bond rule for certain bonds for the Massachusetts Municipal Wholesale Electric Company;

(8) the amendment extends the termination date for exempting tax-increment bonds from the private loan bond rule from December 31, 1985, to the date of enactment; and

(9) the amendment deletes exceptions from the small-issue IDB principal user rule for certain bonds for two alternative energy projects (Richmond, California, and Placerville, California) and adds two new exceptions for such facilities (Los Banos, California, and Warrensburg, New York).

VI. Miscellaneous

A. Sale of Stock in Foreign Corporations (sec. 1575(g) of the House bill and sec. 1875(g) of the Senate amendment)

The Senate amendment is the same as the House bill, except that the amendment applies to exchanges after March 1, 1986 (rather than September 27, 1985).

B. Foreign Sales Corporations (sec. 1576 of the House bill and sec. 1876 of the Senate amendment)

The Senate amendment is the same as the House bill, except that a transition rule for certain contracts and leases is deleted.

C. Excise Tax on Truck Piggyback Trailers (sec. 1577(c) of the House bill)

The Senate amendment does not contain the provision eliminating recapture of the benefits of a reduced tax rate on piggyback trailers after 6 years.

D. Interest on Estate Tax (sec. 1878(c) of the Senate amendment)

The Senate amendment clarifies that transfer of property to the United States in satisfaction of estate tax liability pursuant to section 1028 of the 1984 Act will satisfy the liability for interest accrual on the tax.

E. Demolition Expenses (sec. 1578(g) of the House bill and sec. 1878(h) of the Senate amendment)

The Senate amendment is the same as the House bill, except that the unrecovered basis in two specified demolished structures may be deducted in the year of demolition.

F. Distilled Spirits (sec. 1579(i) of the House bill)

The Senate amendment deletes the provision in the House bill clarifying eligibility for drawback of distilled spirits from Puerto Rico and Virgin Islands.

G. Religious and Apostolic Organizations (sec. 1879(i) of the Senate amendment)

The Senate amendment allows the investment tax credit to certain religious and apostolic organizations, effective January 1, 1979.

H. Mutual Savings Banks (sec. 1879(j) of the Senate amendment)

The Senate amendment conforms the definition of mutual savings banks in the provision allowing exemption to insurers (sec. 501(c)(14)) with the definition in the provision allowing bad debt reserves (sec. 591(b)).

I. Investment Company Reorganizations (sec. 1879(k) of the Senate amendment)

The Senate amendment clarifies that a corporation owning stock in a RIC, REIT, or a diversified investment company is treated as owning stock held by such company, for purposes of the investment company rules.

J. Subchapter S Corporations (sec. 1879(l) of the Senate amendment)

The Senate amendment--

(1) provides that a separate share of a trust may be treated as a separate trust; and

(2) clarifies that payment of regular corporate income tax does not reduce amounts available for tax-free distributions to shareholders.

K. QTIP Elections (sec. 1879(m) of the Senate amendment)

The Senate amendment provides that the time for filing an election to treat certain life estates as eligible for the gift tax deduction is extended where the time for filing a gift tax return is extended, effective for transfers after 1985.

L. Windfall Profit Tax (sec. 1879(n) of the Senate amendment)

The Senate amendment treats an interest in oil held by

the Episcopal Royalty Company as a "qualified charitable interest" exempt from the tax.

M. Church Employees (sec. 1585(b) of the House bill and sec. 1882(b) of the Senate amendment)

The Senate amendment is the same as the House bill, except that it is effective after 1985 (rather than 1984).

N. Insolvent Farmers (sec. 1896 of the Senate amendment)

The Senate amendment provides that claims arising from the minimum tax amendment made by the 1985 Budget Reconciliation Act may be made within one year after the enactment of this bill.

TECHNICAL CORRECTIONS TO THE RETIREMENT EQUITY ACT OF 1984 (Section 1897 of the Senate Amendment)

The Senate amendment is the same as H.R. 2110, as reported by the Committee on Ways and Means[1] except--

(1) the notice period during which the plan is required to provide a participant with a written explanation of the qualified preretirement survivor annuity includes a reasonable period after separation from service in the case of a participant who separates before age 35;

(2) the amendment provides that the annuity starting date in the case of a benefit which is not payable as an annuity is the date on which such benefit is paid or commences being paid (the House bill provides that, in such cases, the annuity starting date is the date such benefit is to be paid).

(3) the amendment clarifies that a plan that is exempt from the survivor benefit requirements will not be treated as failing to be a qualified plan merely because the plan provides a survivor annuity that does not meet the survivor, benefit requirements;

(4) the definition of earliest retirement age for purposes of the qualified domestic relations order provisions is modified to mean (a) the date that is 10 years before the normal retirement age or (b) in the case of a plan from which amounts may be withdrawn before separation from service, the date that amounts may be withdrawn;

(5) the rules relating to cash outs of accrued benefits are applicable only to vested, accrued benefits;

(6) the rules relating to cash outs of accrued benefits do not apply to deductible dividend distributions from an employee stock ownership plan (ESOP) to participants or beneficiaries;

(7) the rules relating to cutbacks in accrued benefits are not treated as violated merely because an ESOP is amended to modify distribution options in a nondiscriminatory manner;

(8) the deferred effective date of the Act for collectively bargained plans is extended from January 1, 1987, to July 1, 1988;

(9) the amendment provides that any waiver of a

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[1] H. Rept. 99-526, Part 1; April 10, 1986.

survivor benefit is not treated as a transfer for purposes of the gift tax provisions;

(10) with respect to the transition rule for participants who died between the date of enactment and the effective date, the plan is treated as satisfying the transition rule if the plan paid the survivor benefit to the surviving spouse in a form other than a survivor annuity; and

(11) the amendment does not contain the amendment to ERISA to permit owner-employees to borrow from a qualified plan.

TECHNICAL CORRECTION TO SOCIAL SECURITY ACT

(Sec. 1585 of the House bill and Sec. 1882 of the Senate amendment)

The Senate amendment makes certain corrections in spelling, language, and indentation provisions related to the Social Security Act programs.

TECHNICAL CORRECTIONS TO MEDICARE

(Sec. 1895 of the Senate amendment)

(1) The Senate amendment corrects the termination date of the ACCESS demonstration project;

(2) The Senate amendment clarifies that the Director of OTA should initially provide for such terms for members of the Prospective Payment Assessment Commission that ensure that no more than 8 members term would expire in the same year; and

(3) The Senate amendment corrects citation errors.

TECHNICAL CORRECTIONS TO AFDC AND CHILD SUPPORT PROGRAMS

I. Stepparent Work Disregard (sec. 1883(b)(1) of the Senate amendment)

The Senate amendment repeals the authority for a lower disregard in the case of part-time employment effective October 1, 1984.

II. Standard Filing Unit (sec. 1883(b)(2) of the Senate amendment)

The Senate amendment clarifies that the standard filing unit provision applies to the AFDC-UP program. The amendment also clarifies that Title II benefits and certain child support payments are also included in family income under the standard filing unit. The changes are effective October 1, 1984.

III. Definition of Minor Parent (sec. 1883(b)(3) of the Senate amendment)

The Senate amendment clarifies that the definition of minor parent is based only on age, not on school attendance.

The amendment is effective October 1, 1984.

IV. Treatment of Foster Care Payments (sec. 1883(b)(9) of the Senate amendment

The Senate amendment clarifies that the sibling of an AFDC child receiving foster care maintenance payments is not a member of the AFDC unit.

V. Amendment Related to the Child Support Enforcement Amendments of 1984 (sec. 1898 of the Senate amendment)

The Senate amendment amends section 457(b)(3) of the Social Security Act to assure that child support required by a court order is treated the same as support ordered pursuant to an administrative process.

TECHNICAL CORRECTIONS TO TRADE AND TARIFF PROGRAMS

I. Amendments to the Tariff Schedules (sec. 1591 of the House bill and sec. 1885 of the Senate amendment)

(1) The Senate amendment contains a provision modifying the article description for nicotine resin in item 907.63 of the Tariff Schedules;

(2) The Senate amendment does not have a provision relating to silicon electrical steel; and

(3) The Senate amendment contains a provision providing for retroactive application of the amendments made in this section.

II. Countervailing and Antidumping Duty Provisions (sec. 1592 of the House bill and sec. 1886 of the Senate amendment)

The Senate amendment includes an additional section in Title VII of the Tariff Act of 1930 to be amended to conform to the definition of the term, "interested party" as changed to include industry-labor coalitions.

III. Trade Act of 1974 (sec. 1593 of the House bill and sec. 1887 of the Senate amendment)

(1) The Senate amendment adds a correction to an erroneous designation in the trade agreement authority;

(2) The Senate amendment adds a provision to correct paragraph designations in section 141(d) of the Trade Act as amended by the Trade and Tariff Act of 1984;

(3) The Senate amendment changes the reference date from 1984 to 1986 for application of the aggregate waiver authority of the competitive need limits as of 1987 under the Generalized System of Preferences; and

(4) The Senate amendment amends the Tariff Schedules to provide permanent duty-free treatment for articles imported under item 687.70.

IV. Trade and Tariff Act of 1984 (sec. 1595 of the House bill and sec. 1889 of the Senate amendment)

(1) The Senate amendment deletes a provision in the House bill correcting an erroneous reference in section 126 of the Trade and Tariff Act of 1984; and

(2) The Senate amendment deletes the correction made by the House bill in a Tariff Schedules item number reference contained in the agricultural perishable provision of the U.S.-Israel Free Trade Area implementing legislation.

V. Technical Amendments Relating to Customs Users Fees (sec. 1893 of the Senate amendment)

(1) The Senate amendment excludes the application of the $5 passenger fee to passengers transiting through the United States for whom customs inspectional fees are not provided;

(2) The Senate amendment precludes Customs from assessing overtime charges against airlines for pre-clearance of passengers in foreign locations where U.S. Customs officers undertake such pre-clearance;

(3) The Senate amendment directs that regulations issued by the Secretary to collect such fees should be consistent with the current regulations to collect the airport departure tax; and

(4) The Senate amendment provides that overtime charges for inspectional or quarantine services (other than customs services) on Sundays or holidays be reimbursed as if they had been performed during a weekday.